

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING--November 17, 1965

Appeal #8464 John J. Boyle, appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered on November 24, 1965:

**ORDERED:**

That the appeal for a variance from the requirements of Section 7201.3 of the Zoning Regulations to permit waiver of one off-street parking space and for a variance from the provisions of paragraph 5305.2 of the Zoning Regulations to permit alterations affecting light and ventilation onto a nonconforming court at 3403 M Street, N.W., lot 53, square 1204, be granted.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's lot, which is located in the C-2 District, has a frontage of 30 feet on M Street, a depth of 70 feet to a ten foot wide public alley in the rear, and contains an area of 2100 square feet of land.

(2) Appellant's lot is improved with a two-story and basement building in which appellant desires to convert from two apartments (one per floor) to a total of four one-bedroom apartments (two per floor). In order to make this conversion appellant is required to provide one off-street parking space. Inasmuch as the building extends to the alley line there is no space on the lot ~~xxx~~ or within the building to provide this space and he therefore asks for a waiver of the required parking. The first floor of the building is utilized as a restaurant.

(3) Appellant also requests a variance from the provisions of paragraph 5305.2 of the Zoning Regulations which reads: "In the case of an alteration affecting the amount of light and ventilation required by other municipal law or regulation in an existing structure in a Commercial District, no legally required window shall be permitted to open onto a court which does not comply with the dimensions given in paragraph 5305.1 of the Zoning Regulations. Appellant's court is only 4.5 feet in width.

(4) There was objection to the granting of this appeal registered at the public hearing by the Citizens' Assn. of Georgetown and by other property owners.

**OPINION:**

This premise was before the Board at its hearing on October 13, 1965, at which time it was denied. In that case appellant requested a waiver of two off-street parking spaces and to convert the property to three units per floor for a total of six one-bedroom apartments. The Board ruled that the proposed occupancy of this premises was excessive and it located where off-street parking spaces are desirable and necessary. The Board also ruled in that appeal that it was not appropriate for the additional dwelling units requested.

In the instant appeal the Board is of the opinion that appellant has now proven a case of hardship within the provisions of Section 8207.11 of the Zoning

Regulations due to the fact that he has reduced the number of apartment units to two per floor in lieu of three for a total of four units in lieu of six. Further, under the new plan only one off-street parking space is required which, in our opinion, is justified to be waived and still be consistent with the spirit and purpose of these regulations.

The Board is further of the opinion that due to the length of this portion of the building intended for apartments, which is forty-nine feet in length by thirty feet in width, that there is a economical hardship existing in the property if required to remain as one apartment unit per floor. We feel that the two apartments per floor provides adequate floor area, and further, the light and air to these units will not be reduced by the creation of two units per floor.

In view of the above it is our further opinion that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map, and that a denial of the appeal would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of the property.

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